

# HOUSE . . . . . No. 1851

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Jeffrey Sánchez**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act opposing unnecessary language restrictions in the workplace.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
William Lantigua	16th Essex
Jeffrey Sánchez	15th Suffolk
Gloria L. Fox	7th Suffolk
Elizabeth A. Malia	11th Suffolk
Antonio F.D. Cabral	13th Bristol
Timothy J. Toomey, Jr.	26th Middlesex
Patricia D. Jehlen	Second Middlesex
Byron Rushing	9th Suffolk
Carlo P. Basile	1st Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1845 OF 2007-2008.]

## **The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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### **AN ACT OPPOSING UNNECESSARY LANGUAGE RESTRICTIONS IN THE WORKPLACE.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section 1. Chapter 151B, Section 1 of the General Laws, as appearing in the 2006 Official  
2 Edition, shall be amended by adding to the end thereof the following:

3 24. The term "Business necessity" shall mean an overriding legitimate business  
4 purpose such that the business policy in question is necessary to the safe and  
5 efficient operation of the business, that the business policy effectively fulfills the  
6 business purpose it is supposed to serve, and there is no alternative practice to the  
7 business policy that would accomplish the business purpose equally well with a  
8 lesser discriminatory impact."

9 Section 2. Chapter 151B, Section 4 of the General Laws, as appearing in the 2006 Official  
10 Edition, shall be amended by adding to the end thereof the following:

11 20. (A) No person may be disqualified from entering into, pursuing a career in,  
12 advancing in, or otherwise enjoying the benefits of employment or participation in  
13 any business, profession, vocation, or employment because of national origin or  
14 ethnic origin, unless based upon a bona fide occupational qualification.

15 (B) Except as provided for in part (C) of this subsection, it shall be an unlawful  
16 employment practice for an employer, employment agency, or labor organization  
17 to adopt or enforce a policy that limits or prohibits the use of any language in any  
18 workplace, unless both of the following conditions exist:

19 (1) The language restriction is justified by a business necessity.

(2) The employer, employment agency, or labor organization has notified its employees of the circumstances and the time when the language restriction is required to be observed and of the consequences for violating the language restriction.

Except as provided for in part (C) of this subsection, it shall be further presumed by the Commonwealth and its courts that any policy adopted or enforced that limits or prohibits the use of any language in any workplace adversely affects and demoralizes persons who are speakers of that language, by creating an atmosphere of inferiority, isolation, and intimidation. Enhancement of the *esprit de corps* or level of comfort of employers, managers, co-workers, customers, or clients who prefer not to hear a specific language being spoken in their presence shall not be deemed to be a valid business necessity under the meaning of this section, provided that an employer may mandate that employees speak a specific language when speaking to (rather than merely in the presence of) an employer, manager, co-worker, customer, or client if such a mandate meets the business necessity and notification provisions of this subsection.

Any policy which allows only a specific language to be used for communication (e.g., an “English Only” rule) shall be construed by the Commonwealth and its courts as a prohibition against the use of all other languages.

(C) It shall be lawful for an employer, employment agency, or labor organization to limit or prohibit employees from engaging in personal (rather than business-related) communication while on the job, without establishing business necessity, provided that such communication is limited or prohibited equally for all languages, and provided further that the employer, employment agency, or labor organization has notified its employees of the circumstances and the time when the personal communication restriction is required to be observed and of the consequences for violating the personal communication restriction.